IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Jugal Kishore. Versus State of Rajasthan & ors.

S.B. Civil Writ Petition No. 3421/2003

...

Sohan Lal. Versus State of Rajasthan & ors.

S.B. Civil Writ Petition No. 2455/2003

...

Gopal. Versus State of Rajasthan & ors.

S.B. Civil Writ Petition No. 2456/2003

...

Ashok. Versus State of Rajasthan & ors.

S.B. Civil Writ Petition No. 3089/2003

and

Jagdish. Versus State of Rajasthan & ors.

S.B. Civil Writ Petition No. 3091/2003

...

Date of Order: January 08, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. B.K. Vyas, for the petitioners.
Mr. Rameshwar Dave, Deputy Govt. Advocate.
Mr. Dileep Moolchandani, for non-petitioner No.2.
Mr. Rajendra Kothari, for private non-petitioners.

BY THE COURT:

These five writ petitions involve common questions of law and facts and, therefore, with the consent of the learned counsel for the parties, these petitions are being heard and decided by this common order by taking the facts of S.B. Civil Writ Petition No. 3421/2003 as the leading case.

The petitioner in this writ petition has assailed the order dated 14-5-2003 (Annx.2). The facts and circumstances giving rise to the petition are that the petitioner was initially appointed as "Safai Karamchari" in the year 1970, however, he was temporarily promoted as the acting Jamadar and thereafter in view of the Notification dated 17-8-1990 issued by the Deputy Secretary to the Government, in compliance of the amendment made in the Rajasthan Municipalties (Class IV Service) Rules, 1964 (for short, "the Rules, 1964"), the post of Sanitary Jamadar was required to be filled 50% by promotion from amongst the persons holding the posts of Bhisties, Sweepers and Scavengers on the basis of the inter se seniority based on length of service and 50% by merit based on Educational Qualification and length of service from amongst the Bhisties, Sweepers and Scavengers.

It is contended by the learned counsel for the petitioners that the posts were required to be filled up 100% by

promotion on the basis of seniority based on length of service.

Learned Deputy Government Advocate appearing for the State as well as the counsel for the non-petitioner Municipal Board and the private non-petitioners contended that the Rules of 1964 came to be amended by the Notification dated 17.8.1990, which reads as under:-

> "(1) In the Schedule, at the end, note No.2 be substituted as under:-
>
> (2)The posts of Sanitary Jamadar be filled 50% by promotion from amongst the persons holding the posts of Bhisties, Sweepers and Scavengers on the basis of the inter se seniority based on length of service and 50% by merit based on Educational Qualification and length of service, from amongst the above cadre."

It has been contended that by amending the Rules, it has been made clear that 50% posts of Sanitary Jamadars will be filled by promotion amongst the persons holding the posts of Bhisties, Sweepers and Scavengers on the basis of inter se seniotiry based on length of service and 50% on merit based on educational qualification and length of service from amongst the persons of above cadre and in the instant cases, the contesting private non-petitioners have been promoted by filling up 50% of the posts by merit and length of service. So far as remaining 50% promotions on inter se seniority based on length of service is concerned, the persons appointed are senior to the petitioners and, therefore, the petitioners are not entitled for promotion.

The private non-petitioners in these writ petitions have been promoted under the category of 50% promotion by merit based on educational qualification and length of service and, therefore, it cannot be said that the petitioners have been discriminated. The persons who have been appointed under the category of 50% by promotion on inter se seniority based on length of service, are senior to the petitioners. In this view of the matter, no case for interference is made out.

In the result, I do not find any merit in these five writ petitions and accordingly they are dismissed. The stay petitions also stand dismissed. There shall be no order as to costs.

(H.R. PANWAR), J.

mcs